

BLOOMINGTON HUMAN RIGHTS COMMISSION
DIRECTOR'S QUARTERLY REPORT
July - September 2004

- I. Discrimination complaints
 - A. Pending from prior quarters
 - 1. Commissioner Metz' case
 - a. Sex discrimination in employment case filed in February, 2004
 - b. No probable cause decision issued in August, 2004
 - c. Not appealed
 - 2. Commissioner Bowman's case
 - a. Sexual orientation discrimination filed in March, 2004
 - b. No probable cause decision issued in July, 2004
 - c. Not appealed
 - 3. Commissioner Harlig's case
 - a. Race discrimination in public accommodations case filed in May, 2004
 - b. Investigation pending
 - C. Intakes completed and complaints filed with Equal Employment Opportunity Commission (when BHRC had no jurisdiction)
 - 1. Five complaints filed with the EEOC
 - 2. Eleven people referred directly to EEOC due to time constraints
 - D. Intakes and complaints filed with the Indiana Civil Rights Commission - there were no complaints filed with the ICRC

- E. Intakes/discussions that have not yet led to formal complaint being filed
1. Woman said she was being denied right to rent house, because of her family size, income qualifications and/or the fact that the house did not comply with City's housing code. Met with her twice; she said she would get back to us but has not; ignored follow-up email from us.
 2. African American woman said that a bar had posted offensive notice, barring customers with do-rags, bling-bling, etc., from entering. Missed appointment because of accident, said would follow up but has not. We contacted person who referred woman to us; he tried to follow up as well, without success.
 3. Latino said he was fired from his restaurant job because the boss simply didn't like him. The restaurant employs many Latinos, and the man was replaced by a Latino, so he decided not to file complaint.
 4. Woman said that several doctors had refused to see her, allegedly because of her disability and/or activism. Several of her complaints were outside of our statute of limitations. With the one complaint that was timely, it was clear the doctor saw her several times, knowing of her disability, and sees other patients with disabilities. Decided to file complaint with state licensing board instead.
 5. Asian woman said that employer "played mean tricks" on her one to four years ago. She said the employer was trying to make it seem that she stole, but because the employee caught her trying to set her up, the employee didn't get in trouble. She left the job recently for unspecified reasons and wanted to file a complaint. Explained that the alleged discriminatory act occurred

outside of our statute of limitations, and since the employer tried to set up a white employee as well, would be hard to call discrimination. Woman asked for copy of ordinance; read it, argued about its language and then left.

II. Miscellaneous inquiries

- A. Visitor to office, an African American man, said he had been treated badly by justice system (not Monroe County). Referred to Indiana Civil Liberties Union.
- B. Caller, five months pregnant, said she had interviewed for a job. She told the interviewer she was pregnant and explained when she would need to be off for a c-section. She told the interviewer she was willing to take full-time or part-time work. The interviewer said she was hired and said she would call her with information about her first day of work, but never called. Caller called her; interviewer said they had decided not to hire her because she is pregnant and because they may want a part-time employee instead. Woman is concerned about filing a complaint as it may hurt her reputation; will think about it and get back with us.
- C. Email writer, a recent law school graduate, sent a cover letter addressed "to whom it may concern" and a resume. She said in her letter that she knew that the BHRC did "extensive work in trademark and patent law" and asked to be considered for any opening. Replied that the BHRC did no work in these areas and wished her good luck.
- D. Email writer asked BHRC to write letter urging his employer to provide domestic partnership benefits.
- E. Caller said he was told by the state of Indiana that ADA requires curb cuts to be

painted red. Not true; wrote letter and convinced state it was wrong.

- F. Email writer asked if new, two-story townhouses had to be accessible to people with disabilities. No, Fair Housing Law doesn't apply, since these apartments have no elevators (which would mean all units in buildings with four or more units have to be accessible) and were not "ground-level" apartments (since each townhouse has two stories, none are legally "ground-level" apartments, which have to be accessible).
- G. Caller left a message saying that she is going to be off work for the next four weeks for hip replacement surgery. She said she will need accessible restroom when she returns, but employer doesn't have any accessible restrooms. Employer not subject to BHRC jurisdiction. Left her a message saying that employer has to make restroom accessible to her if she meets definition of having a disability and if it's affordable for employer to do so; also told her that her employer has several accessible restrooms. Talked to caller later, who said employer had restrooms that complied with ADA but did not meet her needs. Said she would try to work with employer and get back to us if not successful.
- H. Caller, an African American woman, said she knew of several capable African Americans who had applied to work for an employer outside the city limits. She said none had gotten a job, and she believed the company didn't employ any African Americans. Urged her to have the people she knew call BHRC to file complaints. No follow up.
- I. Woman said that her boss, a woman, had harassed her for five years, calling her derogatory names, yelling at her, etc. She said her boss rarely came to work and when she did, she was hung over and/or spent all of her time on the internet. She said the

stress was so bad, she asked for and received a transfer, but her new boss was friends with her old boss, and things did not improve. She had to take time off for a medical problem and this made her new boss mad, because she (the boss) had to work. So when the caller returned, things got even worse, and the caller quit. She won unemployment benefits, but the employer appealed, and she wanted representation at the hearing. Told her we could not represent her at the hearing; referred her to Indiana Legal Services. She is considering filing a complaint of sex and/or disability discrimination in employment. Her employer is not in the city limits.

- J. Caller said that her landlord, from whom she had rented for five years, had just hired a new, "wonderful" manager. The manager is requiring all tenants to fill out an application. One of the questions is "Have you ever been divorced? If so, explain." Caller didn't mind answering this question honestly, but wanted to know her rights. It's not illegal sex discrimination (although it's likely a poor business practice) to refuse to rent to people who have been divorced, or to refuse to rent to people who have not been divorced. If a landlord refused to rent to divorced women but was willing to rent to divorced men, that would be illegal sex discrimination. But marital status is not a protected category under local or federal law.
- K. Visitor to office said that her daughter, an adult, was living in Section 8 housing. Her daughter got behind in paying utilities and the landlord said she needed to move out or he would evict her. The mother said that landlords should not be able to do this, as they should know that Section 8 tenants frequently have financial problems. She said that Section 8 tenants are easily intimidated by their landlords. The daughter, who is a member of protected

class, may file a complaint. We contacted Bloomington Housing Authority about coming up with a brochure or flyer on tenants' rights and responsibilities under the law.

- L. Email writer, who is trying to get his employer to offer domestic partnership benefits, asked how many employees the City has, how many have opted for domestic partnership benefits and how much offering domestic partnership benefits increased the City's insurance costs. Referred to Employee Services.
- M. Email writer, same as mentioned in L, above, asked about the history of protection against discrimination on the basis of sexual orientation in the Bloomington Human Rights Ordinance; answered questions.
- N. Email writer, director of another local human rights commission, asked if it would constitute religious discrimination for a Christian-affiliated social services agency to refuse to accept applications for services from people affiliated with another Christian organization. Yes, possibly; it would be religious discrimination for a Protestant store owner to refuse service to a customer because the customer is Methodist, even though both are Christian. But the agency mentioned in the inquiry may not meet the definition of employer or provider of public accommodations found in human rights laws.
- O. Caller said that her former employer had fired her while she was on FMLA. Started to refer her to appropriate federal agency, but she said she had already pursued the matter successfully and won enough money to start her own small business. She said her former coworkers who still work there are not treated fairly. Women who have worked there for years get paid less than new male employees and have limited chance for advancement. Women who return from medical

leave are given the hardest jobs, and if they have medical restrictions, they are fired. Urged her to have the women call BHRC to file complaint, or at least discuss the situation; women made appointment but didn't show.

- P. Email writer said that new restaurant's sidewalk dining area violated City's clear and straight path requirements. Referred to Public Works to investigate; tables comply with sidewalk rules.
- Q. Caller said that he worked as an independent contractor. His supervisor is good friends with a man he has to work with from time to time, and this coworker has repeatedly harassed the caller on the basis of his sexual orientation. Caller said that he has brought concerns to his supervisor before with no response; the supervisor avoids confrontation and takes his friend's side of disputes. Human rights ordinance does not apply to independent contractor.
- R. Caller said he was looking for housing for himself and his daughter; referred to Bloomington Housing Authority.
- S. Caller said she had filed a complaint with the EEOC, alleging that her employer paid less qualified male employees more than she was paid for similar work, and gave such male employees more annual vacation time. Employer not subject to BHRC jurisdiction. She had questions about EEOC's mediation process and whether she needed an attorney; answered questions and gave general advice.
- T. Email writer asked how to get in contact with Art Garcia, who gave presentation on Title VI in July; provided information.
- U. Email writer said that a teacher in his county (not Monroe County) had been outed as a lesbian and told to find another job.

Writer knew that sexual orientation was not a protected category under state civil rights law, but asked if Governor O'Bannon's executive order prohibiting discrimination on the basis of sexual orientation in state agencies would apply. (Governor Kernan reaffirmed this policy when he took office.) Probably not, as school systems are not state agencies.

- V. Caller said he heard that the BHRC was often busy and wanted to know if we needed secretarial help; no. Asked if we made loans to people looking for jobs; no.
- W. Caller, on a recording, said that the BHRC had won an all paid, four-day trip to Orlando; hung up.
- X. Caller said she was on SSI. She applied for a job, not within Monroe County, that would have required her to work three to four hours a week. Her doctor said she could do this work, provided she didn't lift more than 70 pounds. The prospective employer repeatedly required additional medical documentation that caller felt she should be able to keep private. Referred to EEOC.
- Y. Caller said that she was an African American woman with one child and another on the way. She said that subsidized housing provider, not subject to the jurisdiction of the BHRC, had yet to rent her an apartment, instead renting first to gay couples. She said the provider would not give her a three-bedroom apartment because her baby is not yet born, yet gives two-bedroom apartments to gay men "who don't need two bedrooms." She said she knew the men were gay because of their appearance. Referred to Indiana Civil Rights Commission and/or HUD.
- Z. Email writer asked if parking lots for Greek houses have to comply with ADA. If parking lots are not open to the general public,

they do not have to comply with the ADA. But, if a resident or an employee of the house has a disability and needed an accessible parking space as an accommodation, then the house would likely have to provide accessible parking for that employee or resident.

- AA. Caller said that she has a Section 8 apartment. She wants out of the lease, and the housing authority says she can get out of the lease if the landlord agrees. The landlord will not let her out of the lease but will evict her, but she doesn't want an eviction on her record. She said that the landlord is discriminating against her because of the type of dog she has, a Chow. He does not criticize other people's dogs, including Rottweilers. Told her that discriminating on the basis of type of dog was not illegal discrimination, unless her dog is a service animal, or unless he treats owners of Chows from different races/ religions/etc. better.
- BB. Caller asked for referral for a lawyer familiar with administrative law; answered questions and gave general advice.
- CC. Email writer for whom we had prepared complaint that was filed with EEOC had questions about EEOC procedures and practices; answered.
- DD. Caller for whom we had prepared complaint that was filed with EEOC had questions about EEOC procedures and practices; answered.
- EE. Caller, an African American woman, was calling on behalf of daughter who she said was being discriminated against. Daughter worked for government agency which was out of BHRC jurisdiction; referred to ICLU.
- FF. Attorney asked for copy of city's nondiscrimination and harassment policy; provided.

- GG. Caller asked if it is legal for landlord to rent only to Section 8 tenants; yes, not being on Section 8 does not mean you are in legally protected class.
- HH. Caller, a gay man, said that he was offended that we used the word "faggot" in our hate incident report but used "n_ _ _ _" for "nigger." He said both were equally offensive.
- II. Caller said his employer assured him he was on their insurance plan when he was hired but when he went to make a claim he found out that he was not covered. The insurance company told him his employer failed to fill out the required paperwork. Not a discrimination issue; referred to the State Labor Board or private attorney.
- JJ. Email writer asked if she could still file ADA suit over incident that happened six years earlier; no.
- KK. Email writer asked for information about local gay Republicans; gave referral.
- LL. Caller asked for copies of Chamber Diversity Team handbooks; provided.
- MM. Caller said she saw racist (anti-Asian) graffiti on electrical box near Showers. Referred to people who could fix the problem; problem corrected.
- NN. Caller for whom we had filed complaint with the EEOC said she was having trouble communicating with EEOC's investigator and problems understanding process; gave general advice.
- OO. Woman left message saying that her landlady had repeatedly discriminated against her husband, a Latino. She said they were in the process of divorcing, and she didn't have a phone, but we should talk to her husband.

Left two messages for husband, who didn't return calls.

PP. Woman said she was discriminated against because she failed a drug test and was fired, but so was everyone else who failed the test; no civil rights violation apparent.

QQ. Man said a friend of his moved out of apartment because of anti-gay harassment. The friend has been negotiating with landlord to get his security deposit back. In an email, landlord offered to return the security deposit in exchange for oral sex. Friend may contact BHRC to file complaint or may just take landlord to small claims court.

III. Publicity

- A. Public service announcements sent to radio stations
- B. Mailed 150 copies of monthly newsletter, Rights Stuff, to businesses, agencies and individuals, and distributed 100 copies at bookstores, coffee houses and library
- C. Sent brochures and activity books to fifty-four social services agencies
- D. Stories in H-T and on WGCL and WFIU about annual hate incidents report
- E. Distributed hundreds of activity books during Fourth of July parade; displayed rainbow float

IV. Networking/education

- A. Sponsored Title VI workshop in July; attended by forty plus people
- B. Commissioners staffed table at Multicultural Festival

- C. Commissioners staffed table at Crestmont neighborhood party
 - D. Updated FAQs about fair housing on Monroe County Apartment Association's web page
 - E. McKinney spoke at teleconference on ADA and public accommodations, which was cosponsored by BHRC
 - F. McKinney chaired Chamber's Diversity Team, which published handbook on ADA and public accommodations
 - G. McKinney attended Bloomington United meeting
 - H. McKinney attended continuing legal education forum on representing Latino clients
 - I. Local social service agency requested copies of our brochures for waiting area; provided
 - J. McKinney met with representative of county library to discuss meeting needs of Latino residents
- V. Affirmative action/common wages
- A. McKinney reviewed ten affirmative action plans
 - B. Toddy closed one common wage file
 - C. Toddy conducted four on-site visits
- VI. ADA Issues
- A. Complaint said that restaurant did not have proper accessible parking. Wrote letter; restaurant agreed to correct problem as soon as contractor could be found.
 - B. Complaint said that business that owns both a grocery store and a restaurant did not have proper accessible parking at either site. Wrote letter; business agreed to correct both problems.

- C. Complaint said that governmental unit (not in the city) did not have proper accessible parking. Wrote letter.
- D. BHRC intern surveyed city parking and compiled list of problems, which has been forwarded to appropriate city departments.